



South Carolina House of Representatives

# Legislative Update

Robert W. Harrell, Jr., Speaker of the House

---

Vol. 27

July 23, 2010

No. 21

## MAJOR ISSUES FROM THE 2010 LEGISLATIVE SESSION

This report highlights activity of the second regular session of the 118<sup>th</sup> South Carolina General Assembly. This document summarizes many of the key issues considered by the General Assembly this year. Please note that some of these issues are addressed in more than one bill. In those instances, we have highlighted bills which have made the most progress towards passage. Since this document focuses on key issues, not all provisions of legislation are included in the summaries.

This report is a guide to, not a substitute for, the full text of the legislation summarized. Bill summaries in this document are prepared by staff of the South Carolina House of Representatives and are not the expression of the legislation's sponsor(s) or the House of Representatives. The summaries are strictly for the internal use and benefit of members of the House of Representatives and are not to be construed by a court of law as an expression of legislative intent.

# CONTENTS

<b>2010 Legislative Overview.....</b>	<b>03</b>
<b>2010-2011 Appropriations.....</b>	<b>07</b>
<b>Business, Employment, and Economic Development.....</b>	<b>07</b>
<b>Conservation and Natural Resources.....</b>	<b>14</b>
<b>Consumer Protection and Safety.....</b>	<b>18</b>
<b>Courts and Criminal Justice.....</b>	<b>20</b>
<b>Education.....</b>	<b>27</b>
<b>Family and Health.....</b>	<b>29</b>
<b>Government.....</b>	<b>34</b>
<b>Heritage and Holidays.....</b>	<b>36</b>
<b>Military.....</b>	<b>37</b>
<b>State Finance.....</b>	<b>39</b>

## 2010 LEGISLATIVE OVERVIEW

Compiled by the Office of House Research

The “**South Carolina Economic Development Competitiveness Act of 2010**” was approved by the General Assembly and signed into law by the Governor in order to implement numerous private sector recommendations for fostering an economic development climate in the state that attracts global business and industry investment. Notably, the legislation revises provisions for fee in lieu of property taxes agreements so as to reduce the minimum investment requirement for a business and increase the number of years a fee is available. Under the legislation, manufacturers are eligible for a reassessment of their property in a way that will decrease their tax burden. The legislation allows the Centers of Excellence Matching Endowment that is funded from the South Carolina Education Lottery to better function as an economic development tool by authorizing one-quarter of the endowment to be awarded in connection with significant business and industry capital investment projects that are recommended by the Secretary of Commerce. The legislation modernizes and brings greater uniformity to the state’s jobs tax credits, investment tax credits, revitalization agreements, and numerous other economic development incentives.

The **Department of Employment and Workforce** was established as a cabinet level agency to perform workforce development functions and replace the Employment Security Commission in the administration of unemployment compensation. The department is to be managed and operated by an executive director who is nominated by a newly-created Department of Employment and Workforce Review Committee and appointed by the Governor with the advice and consent of the Senate.

The General Assembly also approved legislation to remedy the insolvency of the **Unemployment Insurance Trust Fund** that is used to provide unemployment compensation. The legislation revises the contributions that the state’s employers are required to make to the trust fund in order to satisfy new solvency targets. Administrative changes have also been approved to provide, among other things, that individuals are ineligible for jobless benefits if they have been dismissed for gross misconduct such as assault or battery on a fellow employee or customer, drunkenness on the job, or serious damage to or theft of workplace property.

The General Assembly approved the **General Appropriations Bill** for fiscal year 2010-2011 under extremely challenging economic conditions. With the state revenue available for appropriation at around \$5 billion, down from a high of over \$7 billion two years ago, the state government budget bill necessarily includes significant reductions in appropriations across the entire array of government programs and services. To offset some reductions, the proposed budget incorporates \$346 million in federal stimulus funds available under the American Recovery and Reinvestment Act and \$234.8 million in federal enhanced Medicaid match rates.

The budget legislation also utilizes \$129.2 million from the Medicaid Maintenance of Effort Fund and \$100 million derived from enhanced tax collection enforcement conducted by the Department of Revenue. Regarding Education Finance Act resources available to the state’s school districts, the legislation provides that the Index of Taxpaying Ability as calculated by the Department of Revenue for 2009 applies for the 2010-11 fiscal year.

**Legislative Update, July 23, 2010**  
**MAJOR ISSUES No. 3**

Lawmakers increased the state's **cigarette tax** by fifty cents per pack, devoting the majority of the revenue generated to a newly-created Medicaid Reserve Fund and authorizing funding for cancer research, smoking prevention and cessation, and state agricultural assistance.

In order to place South Carolina in a better position to weather any future economic downturns, the General Assembly approved a proposed state constitutional amendment to **increase the holdings requirement of the General Reserve Fund**, the state's primary rainy day fund, and revise the use of the state's other set-aside account, the Capital Reserve Fund, so that it can be used more effectively for replenishment during revenue shortfalls. The proposed amendments to the South Carolina Constitution will be submitted to the state's voters at the next general election.

Lawmakers approved a proposed amendment to the South Carolina Constitution to provide that an individual's **right to vote by secret ballot includes decisions that employees make regarding unionization** and other choices relating to representation by labor organizations. This proposed constitutional amendment will be submitted to the voters at the next general election.

The General Assembly approved the **"Permit Extension Joint Resolution of 2010"** to provide a temporary extension for building permits, air and water quality certifications, and certain other government approvals affecting the development of real property within the state. The measure is offered as a means of preventing the abandonment of development projects in the state during depressed economic conditions.

Legislators approved the **"South Carolina Rural Infrastructure Act"** which provides a mechanism for alternative methods of financing infrastructure projects in rural areas that are needed for economic development. A Rural Infrastructure Fund is established to receive funds from state, federal, and other sources to provide loans and other financial assistance for the acquisition and renewal of land, the construction and renovation of facilities, the provision of water service, and other improvements needed to aid the development of trade, commerce, industry, agriculture, aquaculture, and employment opportunities in counties that are designated as distressed or least developed.

Lawmakers established a **microenterprises study committee** to review and make recommendations concerning the need to foster the development of microenterprises and microbusinesses, which are sole proprietorships, partnerships,

or corporations that have fewer than five employees and generally lack access to conventional loans, equity, or other banking services.

In order to reduce recidivism rates and protect potential victims from criminal enterprises, the General Assembly approved the **"South Carolina Reduction in Recidivism Act of 2010"** which provides authority for law enforcement officers to conduct warrantless searches and seizures on those who are on probation or parole. Officers are required to make reports on all warrantless searches or seizures that are conducted to their law enforcement agencies and any findings of abuse of the practice must be reported to the State Law Enforcement Division for investigation.

**Legislative Update, July 23, 2010**  
**MAJOR ISSUES No. 3**

Legislators approved new requirements for a **driver's license code indicating a violent crime record**. The new legislation requires a special code to be affixed to the reverse side of a driver's license or special identification card to inform law enforcement officers that the license holder has a violent criminal record.

The General Assembly approved the "**Omnibus Crime Reduction and Sentencing Reform Act of 2010**" to implement recommendations of the Sentencing Reform Commission. The legislation makes comprehensive statutory revisions with the aim of reducing recidivism, providing fair and effective sentencing options, employing evidence-based practices for more efficient use of correctional funding, and improving overall public safety.

The General Assembly approved and the Governor signed into law new **requirements for criminal background checks of substitute teachers and others working in schools**.

The General Assembly approved legislation authorizing South Carolina to join the **Interstate Compact on Educational Opportunity for Military Children**. The purpose of the compact is to remove barriers to educational success imposed on children of military families because of frequent moves and deployment of their parents by enhancing the transfer of education records and improving coordination among member states so that varying attendance requirements and methods of scheduling, sequencing, grading, course content and assessment will not place children of military families at a disadvantage when they must relocate.

Lawmakers approved new authority for a family court to order **grandparent visitation** of a minor child.

Legislation was approved that revises the **conditions for performing an abortion**. The legislation extends the waiting period requirement by providing that no abortion may be performed sooner than twenty-four hours, rather than one hour, following a woman's receipt of required written materials and notifications, concerning health risks, available care, and fetal development. The Department of Health and Environmental Control must make required materials and forms relating to abortion available on its website, complete with time stamp capability for downloaded

materials. DHEC is also charged with maintaining contact information on those who perform ultrasounds free of charge.

A **Joint Electronic Health Information Study Committee** was established to examine factors affecting the adoption of health information technology in this state and make recommendations on how the use of health information technology and electronic personal health records could be expanded in order to reduce medical errors, improve diagnoses, and enhance the quality and efficiency of health care.

The General Assembly approved and the Governor signed into law a bill pertaining to automatic residential fire sprinkler system requirements and other **building code provisions affecting residential construction**. The legislation requires any provision of, or amendment to, any building code that would affect construction requirements for one-family or two-family dwellings to be promulgated as a regulation by the Building

**Legislative Update, July 23, 2010**  
**MAJOR ISSUES No. 3**

Codes Council and submitted to the General Assembly for legislative review. The legislation provides that a regulation mandating the installation of an automatic residential fire sprinkler system in one-family or two-family dwellings shall not become effective at any time prior to January 1, 2014. A study committee has been established to develop new strategies to increase participation in the tax credit program for fire sprinkler installation, and to review and make recommendations for increasing the installation of interconnected hard-wired smoke alarms.

The General Assembly approved a new mechanism for **financing residential energy efficiency and conservation measures**. The new legislation authorizes electricity and natural gas providers to finance the purchase price and installation cost of energy conservation measures for residential customers that will allow for energy savings and lower utility bills. If a residential customer agrees to the installation of the efficiency measures, such as weatherization and equipment upgrades, a separate meter conservation charge is placed on the customer's bill to allow electricity and natural gas providers to recover the costs of these improvements.

Lawmakers approved the **"South Carolina Water Withdrawal, Permitting, Use, and Reporting Act"** to provide new requirements governing the withdrawal of water from the state's rivers, lakes, springs, and other surface water for industrial and agricultural uses and other consumption.

The General Assembly approved the **"Manufacturer Responsibility and Consumer Convenience Information Technology Equipment Collection and Recovery Act"** to establish a comprehensive and convenient recovery and recycling program for televisions, computers, and printers that is based on individual manufacturer responsibility and shared responsibility among consumers, retailers, and government to ensure that these devices are retired in a manner that promotes resource conservation, and to encourage manufacturers to offer such service to consumers conveniently and at no charge.

## 2010-2011 APPROPRIATIONS

The General Assembly approved **H.4657**, the General Appropriations Bill for fiscal year 2010-2011. With the state revenue available for appropriation at around \$5 billion, down from a high of over \$7 billion two years ago, the state government budget bill necessarily includes significant reductions in appropriations across the entire array of government programs and services.

To offset some reductions, the proposed budget incorporates \$346 million in federal stimulus funds available under the American Recovery and Reinvestment Act and \$234.8 million in federal enhanced Medicaid match rates. The budget legislation also utilizes \$129.2 million from the Medicaid Maintenance of Effort Fund and \$100 million derived from enhanced tax collection enforcement conducted by the Department of Revenue.

Regarding Education Finance Act resources available to the state's school districts, the legislation provides that the Index of Taxpaying Ability as calculated by the Department of Revenue for 2009 applies for the 2010-11 fiscal year.

The House of Representatives sustained several of the Governor's line-item vetoes, including the veto of the \$25.2 million total in state general fund appropriations for the Budget and Control Board as well as vetoes that provide for significant reductions for the Department of Consumer Affairs and the Human Affairs Commission.

*STATUS: Having passed the General Assembly, **H.4657** was ratified on June 3, 2010 (R.293). On June 9, the Governor vetoed certain items in the appropriations bill. The House of Representatives and the Senate subsequently sustained some of the vetoes and overrode others.*

## BUSINESS, EMPLOYMENT & ECONOMIC DEVELOPMENT

### DEPARTMENT OF EMPLOYMENT AND WORKFORCE

The General Assembly approved and the Governor signed into law **H.3442**, a bill that creates the Department of Employment and Workforce as a cabinet level agency to perform workforce development functions and replace the Employment Security Commission in the administration of unemployment compensation. The legislation creates the South Carolina Department of Employment and Workforce and provides for it to be managed and operated by an executive director nominated by a newly-created Department of Employment and Workforce Review Committee and appointed by the Governor with the advice and consent of the Senate. The executive director may be removed from office by the Governor and the executive director as well as the assistant directors and area directors are exempted from state employee

**Legislative Update, July 23, 2010**  
**MAJOR ISSUES No. 3**

grievance procedures so that they will serve in an at will capacity. The executive director's compensation is to be set by the Agency Head Salary Commission.

A nine-member Department of Employment and Workforce Review Committee is created to perform oversight duties and to screen and nominate candidates for the positions of department director and members of the Department of Employment and Workforce Appellate Panel. The committee is composed of three members of the House of Representatives appointed by the Speaker, at least one of whom must be a member of the minority party; three members of the Senate appointed by the President pro Tempore, at least one of whom must be a member of the minority party; and, three members of the general public appointed by the Governor, one of whom must represent businesses with fewer than fifty employees and one of whom must represent businesses with fewer than five hundred employees. The committee is charged with screening candidates for the position of director to ensure that they meet the legislation's criteria for educational attainment and expertise and nominating three qualified candidate from whom the Governor is to select in making his appointment. The committee is also charged with oversight duties which include conducting annual performance reviews of the director and the Department of Employment and Workforce.

The legislation creates a Department of Employment and Workforce Appellate Panel with the sole purpose of hearing and deciding appeals from decisions of the Department of Employment and Workforce's divisions. The members of the appellate panel must be elected by the General Assembly, in joint session, for four-year terms with initial elections to be held before May 22, 2010. Before an individual may be elected to the panel, he must be screened by the Department of Employment and Workforce Review Committee and found to possess the legislation's qualifications for educational attainment or pertinent expertise. A member General Assembly may not be elected to the panel while serving as a legislator or for two years following legislative service. Compensation for the panelists is to be set by the Agency Head Salary Commission.

The legislation transfers to the Department of Employment and Workforce the Workforce Investment Act program that had been assigned to the Department of Commerce through executive order.

**H.3442** also provides for certain administrative changes to begin to remedy the insolvency of the Unemployment Insurance Trust Fund. The legislation provides that an insured worker is ineligible for unemployment compensation benefits if he has been discharged from work for gross misconduct. Gross misconduct includes such activities as: assault or battery on a fellow employee or customer; abuse of a

patient or child under professional care; willful or reckless damage to employer property in excess of fifty dollars; theft of items valued in excess of fifty dollars; failure to comply with applicable state or federal drug and alcohol testing and use regulations; consumption of alcohol or drunkenness on the job in violation of a written workplace policy; insubordination; and willful neglect of duty. The legislation provides new requirements for an individual who has completed a temporary work assignment to contact his temporary employment agency regarding possible reassignment before he can be eligible to receive unemployment benefits.



**Legislative Update, July 23, 2010**  
**MAJOR ISSUES No. 3**

The legislation creates the Workforce Initiative/Economic Development Research Committee to review and make recommendations regarding steps that should be taken to improve the economy of this State, the employment of South Carolinians, and to restore a substantially greater sense of financial security to the citizens of this State. The review must include an inventory of workforce training and recruitment programs and their adequacy towards meeting the needs of South Carolina's businesses. In addition, the review and recommendations must place emphasis on the goal of matching unemployed citizens with jobs. The committee shall submit its report to the General Assembly and Governor before January 1, 2011, at which time it is abolished.

*STATUS: Having passed the General Assembly, **H.3442** was ratified on March 25, 2010, (R.159) and was signed into law by the Governor on March 30 (Act No. 146).*

## **DEPARTMENT OF EMPLOYMENT AND WORKFORCE/ UNEMPLOYMENT COMPENSATION REQUIREMENTS**

The General Assembly approved and the Governor signed into law **S.391**, a bill relating to the Department of Employment and Workforce and unemployment compensation requirements. The legislation provides solvency targets for the state's Unemployment Insurance Trust Fund that is used to provide unemployment compensation benefits and establishes new requirements for the contributions that the state's employers make to the fund. The legislation establishes new requirements for the Department of Employment and Workforce to calculate an annual contribution rate for each qualified employer that is based upon a ranking system which divides the state's employers into twenty benefit ratio classes. Each of these twenty classes must contain approximately five percent of the total taxable wages, excluding reimbursable employment wage, paid in covered employment during the four completed calendar quarters immediately preceding the computation date. The income needed to pay unemployment compensation benefits for the calendar year plus any applicable income needed to reach Unemployment Insurance Trust Fund solvency targets must be divided by the estimated taxable wages for the calendar year. The result rounded to the next higher one-hundredth of one percent is the average required rate needed to pay benefits and achieve solvency targets. In any calendar year in which the Unemployment Insurance Trust Fund is insolvent, the state shall impose additional surcharges on all employers to pay interest on the outstanding debt. The estimated amount of interest to be paid in the upcoming year will be divided by the estimated taxable payroll for the calendar year. The result rounded to the next higher one hundredth of one percent is the statewide average surcharge. After the Unemployment Insurance Trust Fund returns to solvency, the department must promulgate regulations concerning the income needed to pay benefits in each year and return the trust fund to an adequate level.

The legislation also includes provisions relating to the conduct of Department of Employment and Workforce Appellate Panel elections by the General Assembly. The legislation prohibits pledges of support for candidates by members of the General Assembly until after the qualifications of all candidates for that office have been determined by the Department of Employment and Workforce Review Committee and the review committee has released formally to the General Assembly its report regarding the qualifications of all candidates for the office. The legislation provides that a member

**Legislative Update, July 23, 2010**  
**MAJOR ISSUES No. 3**

of the General Assembly may not trade a thing of value, including a pledge to vote for legislation or for another candidate, in exchange for another member's pledge to vote for a candidate for the Department of Employment and Workforce Appellate Panel. A violation of these provisions is a misdemeanor subject to a fine of up to one thousand dollars or imprisonment for up to ninety days. The legislation provides that it is mandatory for a member of the Department of Employment and Workforce Appellate Panel to retire not later than the end of the fiscal year in which he reaches his seventy-second birthday.

*STATUS: Having passed the General Assembly, **S.391** was ratified on June 1, 2010 (R.250) and signed into law by the Governor on June 3 (Act No. 234).*

## **ECONOMIC DEVELOPMENT COMPETITIVENESS ACT**

The General Assembly approved and the Governor signed into law **H.4478**, the "South Carolina Economic Development Competitiveness Act of 2010". The legislation implements numerous private sector recommendations for fostering an economic development climate in the state to attract global business and industry investment. The legislation revises provisions for fee in lieu of property taxes agreements so as to reduce the minimum investment requirement from ten million to five million dollars and increase the number of years a fee is available to thirty years (up from the current maximum of twenty years). Under the legislation, manufacturers are eligible for a reassessment of their property in a way that will decrease their tax burden. The legislation revises provisions for industrial development projects under fee in lieu of property taxes agreements, so as to accommodate investment in a qualified nuclear plant facility. The legislation revises provisions for the Centers of Excellence Matching Endowment that is funded from the South Carolina Education Lottery Account by allowing the review board to award one-quarter of the endowment in connection with significant capital investments committed by a qualified project or industry sector that are recommended by the Secretary of Commerce. The legislation establishes the South Carolina Volume Cap Allocation Act to allow the state to make maximum use of two new types of recovery zone bonds added by provisions of the federal American Recovery and Reinvestment Act of 2009 (ARRA). The legislation expands incentives for life sciences facilities so that they also apply to renewable energy manufacturing facilities involved in the production of solar energy technology, wind turbines, or advanced lithium and ion, or other batteries for alternative energy motor vehicles. The legislation enacts the 'South Carolina Renewable Energy Tax Incentive Program' to provide tax incentives to companies in the solar, wind, geothermal, and other renewable energy industries that are expanding or locating in South Carolina. The Coordinating Council for Economic Development is authorized to award annually up to one million dollars of the eight million dollars of job tax credits to a new warehouse or distribution facility which commits to expending at least forty million dollars at a single site and creating one hundred new full-time jobs. Agribusiness operations are added to the list of businesses that can qualify to receive tax credits for the creation of new jobs. The legislation modernizes and brings greater uniformity to jobs tax credits, investment tax credits, revitalization agreements, and numerous other economic development incentive tools.

**Legislative Update, July 23, 2010**  
**MAJOR ISSUES No. 3**

*STATUS: Having passed the General Assembly, **H.4478** was ratified on June 21, 2010 (R.351) and was signed into law by the Governor on June 23 (Act No. 290).*

## **MICROENTERPRISES STUDY COMMITTEE**

The General Assembly approved and the Governor signed into law **H.4352**, legislation establishing a microenterprises study committee. This joint resolution establishes a study committee to review and make recommendations concerning the need to foster the development of microenterprises and microbusinesses, which are sole proprietorships, partnerships, or corporations that have fewer than five employees and generally lack access to conventional loans, equity, or other banking services. The study committee must be composed of the following nine members: (1) two members appointed by the Governor; (2) two members appointed by the Speaker of the House of Representatives; (3) two members appointed by the President Pro Tempore of the Senate; (4) one member appointed by the President Pro Tempore of the Senate upon the recommendation of the South Carolina Banker's Association; (5) one member appointed by the Speaker of the House of Representatives upon the recommendation of the South Carolina Business Initiative; and (6) one member appointed by the Governor upon the recommendation of the Advisory Coordinating Council for Economic Development. The study committee is required to report its findings and recommendations to the General Assembly no later than January 20, 2011, at which time the study committee is abolished.

*STATUS: Having passed the General Assembly, **H.4352** was ratified on May 13, 2010 (R.214) and signed into law by the Governor on May 19.*

## **MOTOR FUEL BLENDING**

The General Assembly approved **H.3707**, a bill requiring motor fuel terminals to offer for sale products that are suitable for subsequent blending either with ethanol or biodiesel, a process known as splash blending. Under the legislation, a person or entity is prohibited from taking an action to deny a motor fuel distributor or retailer from being the blender of record. In addition, motor fuel distributors, retailers, and refiners must utilize the renewable identification number (RIN). The legislation may not be construed to imply a market value for the RINs. The legislation also declares a violation to be an unfair trade practice and provides that each violation is to be considered a separate offense.

*STATUS: Having passed the General Assembly, **H.3707** was ratified on March 25, 2010 (R.160). The Governor vetoed the bill on March 31. On April 15, legislators overrode the Governor's veto to allow the bill to become law (Act No. 147).*

## **“PERMIT EXTENSION JOINT RESOLUTION OF 2010”**

The General Assembly approved and the Governor signed into law **H.4445**, the “Permit Extension Joint Resolution of 2010.” The joint resolution provides a temporary extension for building permits, air and water quality certifications, and certain other government approvals affecting the development of real property within the state. The measure is offered as a means of preventing the abandonment of development projects in the state

**Legislative Update, July 23, 2010**  
**MAJOR ISSUES No. 3**

during depressed economic conditions. For development approval that is current and valid at any point during the period beginning January 1, 2008, and ending December 31, 2012, the running of the period of the development approval and any associated vested right is suspended during the period beginning January 1, 2008, and ending December 31, 2012.

*STATUS: Having passed the General Assembly, **H.4445** was ratified on May 13, 2010 (R.215) and signed into law by the Governor on May 19.*

## **PROPOSED CONSTITUTIONAL AMENDMENT GUARANTEEING THE RIGHT TO USE SECRET BALLOTS IN LABOR ORGANIZATION VOTING**

This joint resolution proposes to amend the South Carolina Constitution to provide that the fundamental right of an individual to vote by secret ballot is guaranteed for a designation, a selection, or an authorization for employee representation by a labor organization. This proposed constitutional amendment will be submitted to the voters at the next general election.

*STATUS: Having passed the General Assembly, **H.3305** was ratified on March 25, 2010 (R.157).*

## **RURAL INFRASTRUCTURE ACT**

The General Assembly approved **H.4511**, the “South Carolina Rural Infrastructure Act” which provides a mechanism for alternative methods of financing infrastructure projects in rural areas that are needed for economic development. The legislation creates a South Carolina Rural Infrastructure Authority to assist municipalities, counties, special purpose districts, public service districts, and public works commissions in constructing and improving rural infrastructure by providing loans and other financial assistance. A distinct Rural Infrastructure Fund is established to receive funds from state, federal, and other sources for financing eligible projects including the acquisition and renewal of land, the construction and renovation of facilities, the furnishing of machinery and equipment, and the provision of water service and other improvements needed to aid the development of trade, commerce, industry, agriculture, aquaculture, and employment opportunities, all of which must be primarily located in a county designated as distressed or least developed. The legislation provides for the powers and duties of the seven-member board of directors of the Rural Infrastructure Authority composed of the Secretary of Commerce, who serves as the board chair and six members who must be residents of counties designated as distressed or least developed one of whom is appointed by the President Pro Tempore of the Senate, one by the Speaker of the House of Representatives, one by the Chairman of the Senate Finance Committee, one by the Chairman of the House Ways and Means Committee, and two by the Governor.

**Legislative Update, July 23, 2010**  
**MAJOR ISSUES No. 3**

Before providing a loan or other financial assistance to a qualified borrower, the authority must obtain the review and approval of the Joint Bond Review Committee.

*STATUS: Having passed the General Assembly, **H.4511** was ratified on May 6, 2010 (R.202). The Governor vetoed the bill on May 12. On May 26, legislators overrode the Governor's veto to allow the bill to become law (Act No. 171).*

## **TATTOOING AGE RESTRICTIONS**

The legislation provides that persons eighteen or older are authorized to receive a tattoo.

*STATUS: Having passed the General Assembly, **S.188** was ratified on March 25, 2010 (R.139) and signed into law by the Governor on April 13 (Act No. 133).*

# **CONSERVATION & NATURAL RESOURCES**

## **AGRI-TOURISM ACTIVITY LIABILITY**

Under certain circumstances, this legislation limits the liability that an agri-tourism professional may incur due to an injury or death suffered by a participant in an agri-tourism activity resulting from an inherent risk of an agri-tourism activity. Among other things, the legislation defines the terms 'agri-tourism activity' and 'inherent risks of an agri-tourism activity'. An agri-tourism professional must post a warning notice at the agri-tourism facility, and warning notices must be included in contracts the agri-tourism professional enters into with participants. The agri-tourism professional's liability is not limited if the proper warning notices are not provided to participants.

*STATUS: Having passed the General Assembly, **S.104** (R.294) was ratified on June 7, 2010 and became law without the Governor's signature (Act No. 236).*

## **COYOTE HUNTING AND TRAPPING**

The legislation provides that it is lawful to trap furbearing animals for commercial purposes from December first of each year to March first of the succeeding year. The legislation provides it is lawful to trap coyotes from December first of each year to March

**Legislative Update, July 23, 2010**  
**MAJOR ISSUES No. 3**

first of the succeeding year. It is unlawful to trap coyotes at any other time unless authorized by the Department of Natural Resources. The legislation provides that it is lawful to take coyotes by other lawful means at any time during the year.

*STATUS: Having passed the General Assembly, **S.1294** (R.266) was ratified on June 6, 2010 (R.266) and signed into law by the Governor on June 7 (Act No.218).*

## **FINANCING RESIDENTIAL ENERGY EFFICIENCY AND CONSERVATION MEASURES**

The General Assembly approved and the Governor signed into law **S.1096**, a bill providing a mechanism for financing residential energy efficiency and conservation measures. This bill provides electricity and natural gas providers the authority to finance the purchase price and installation cost of energy conservation measures for residential customers and recover this financing through charges paid for by the customers benefitting from the installation of the energy conservation measures.

Before an electricity provider or natural gas provider may enter into a financing contract on a residence, an energy audit must be performed on the residence to demonstrate that energy savings can be expected from energy efficiency measures, such as weatherization and equipment upgrades. Should the residential customer agree to the installation of the of the efficiency measures, a second audit must be performed after the installation to show that energy savings have been realized. In order for electricity providers and natural gas providers to recover the costs, including financing costs, of the energy efficiency and conservation measures a separate meter conservation charge is placed on a customer's bill.

*STATUS: Having passed the General Assembly, **S.1096** was ratified on March 25, 2010 (R.148) and was signed into law by the Governor on March 31 (Act No. 141).*

## **FLOUNDER POPULATION STUDY PROGRAM**

This bill establishes the Flounder Population Study Program which will be administered by the Department of Natural Resources. The program shall study the effects of flounder catch limits and the prohibition of artificial illumination produced by motor fuel powered generators on flounder located in the waters of Pawleys Inlet. The bill provides that "gigging" means using a prong, spear or similar device, including a bow and arrow to spear a fish. The bill outlines the operation of the program and states that the program shall run for five years, beginning January 1, 2010 and ending June 30, 2014.

*STATUS: Having passed the General Assembly, **S.1043** was ratified on March 25, 2010 (R.147) and signed by into law by the Governor on March 31(Act No. 140).*

## **HOG HUNTING**

The legislation outlines that it is unlawful to release pigs into the wild. A permit is required to remove a hog from the wild alive; the cost of this permit is \$50. The permit will require the captured hogs to be tagged permanently. The tagged hogs can only be moved to a permitted hog hunting enclosure within the county where the hog was

**Legislative Update, July 23, 2010**  
**MAJOR ISSUES No. 3**

caught. Hog hunting enclosures that receive permitted and tagged hogs, removed from the wild, must also obtain a permit issued by the Department of Natural Resources. The permit for the hog hunting enclosures is \$50. The legislation also states that hogs may be hunted at night with an artificial light that is attached to the hunter's helmet or hat or be part of a belt system worn by the hunter. Hogs may not be hunted at night from a vehicle or with a centerfire rifle or shotgun, unless permitted by the department. A person who violates this provision is guilty of a misdemeanor and upon conviction must be fined not more than five hundred dollars or imprisoned for not more than thirty days, or both.

*STATUS: Having passed the General Assembly, **S.932** (R.255) was ratified on June 1, 2010 (R.255) and became law without the Governor's signature on June 8 (Act No. 211).*

## **"MANUFACTURER RESPONSIBILITY AND CONSUMER CONVENIENCE INFORMATION TECHNOLOGY EQUIPMENT COLLECTION AND RECOVERY ACT"**

This legislation establishes a comprehensive and convenient recovery program for televisions, computing, and printing devices based on individual manufacturer responsibility and shared responsibility among consumers, retailers, and government to ensure that end-of-life televisions, computing, and printing devices are retired in a manner that promotes resource conservation through the development of an effective and efficient system for collecting and recycling such products, and to encourage manufacturers to offer such service to consumers conveniently and at no charge. Under the legislation, a manufacturer may sell or offer to sell a covered device in this state only if a manufacturer's brand label is permanently affixed in a readily visible location and only if the manufacturer provides a recovery program at no charge or provides a financial incentive of equal or greater value, such as a coupon. The legislation establishes requirements for these recovery systems. After July 1, 2011, a consumer must not knowingly place or discard a covered device or any of the components or subassemblies of a covered device in any waste stream that is to be disposed of in a solid waste landfill. An owner or operator of a solid waste landfill must not knowingly accept for disposal loads composed primarily of covered devices. The Department of Health and Environmental Control may propose by regulation, which must be submitted to the General Assembly pursuant to the Administrative Procedures Act, an initial registration fee and/or annual fee on computer or television manufacturers of covered devices, the proceeds of which must be used solely for the purposes of implementing the provisions of this legislation. Any fee proposed by the department for computer manufacturers must be graduated based on volume of sales in this state and any fee for television manufacturers must be based on market share. A manufacturer that sells one thousand or fewer covered devices per year is exempt from any fee.

*STATUS: Having passed the General Assembly, **H.4093** was ratified on May 13, 2010 (R.212) and signed into law by the Governor on May 19 (Act No. 139).*

## **PET INOCULATION AGAINST RABIES**

**Legislative Update, July 23, 2010**  
**MAJOR ISSUES No. 3**

The legislation provides that rabies inoculations must be administered to pets by a licensed veterinarian or a licensed veterinary technician or veterinary assistant under a licensed veterinarian's direct supervision. The fee for rabies inoculation may not exceed ten dollars, including the cost of the vaccine, and this charge must be paid by the pet owner.

*STATUS: Having passed the General Assembly, **S.328** was ratified on May 13, 2010 (R.206) and became law without the Governor's signature on May 20 (Act No. 173).*

## **“RENEGADE HUNTER ACT”**

This legislation enacts the "Renegade Hunter Act" which prohibits using dogs to hunt on property without the permission of the landowner. The legislation further states that it is not a violation if a person, with the landowner's permission, uses a single dog to recover a dead or wounded animal on the land of another and maintains sight and voice contact with the dog. However, if a dog has entered upon the land of another without permission given to the person in control of the dog shall not be killed, maimed, or otherwise harmed simply because the dog has entered upon the land. The legislation states that hunting includes attempting to take any game animal, hog or coyote by occupying stands, standing or occupying a vehicle while possessing, carrying or having readily accessible centerfire rifle and a shotgun with shot size larger than number four. In addition, the legislation outlines that possessing, carrying, or having readily available does not include a centerfire rifle or a shotgun that is 1) unloaded and cased in a closed compartment or vehicle; 2) unloaded and cased in a vehicle trunk or tool box; 3) in a vehicle traveling in a normal manner on a public road or highway; 4) or, in case of a stander with no vehicle, encased or unloaded with the shells at least thirty feet away and stacked. There are penalties for violating these provisions. These provisions do not apply to bear hunting.

*STATUS: Having passed the General Assembly, **S.1027** was ratified on June 7, 2010 (R.306) and signed into law by the Governor on June 11 (Act No. 239).*

## **“SOUTH CAROLINA WATER WITHDRAWAL, PERMITTING, USE, AND REPORTING ACT”**

This bill makes comprehensive revisions regarding permitting to Surface Water Withdrawals and Reporting Act. The bill provides for new definitions; and provides that all surface water withdrawals, with certain exceptions, must be permitted. A permit may not be issued to a new applicant unless the Department of Health and Environmental Control determines that the applicant's proposed use is reasonable to the regulations. An existing registered surface water withdrawer already reporting its withdrawals to the department as of January 1, 2011, may maintain its withdrawals at its highest reported level or at the design capacity of the intake structure which will be permanent as of January 2, 1011, and is deemed to be registered with the department. The legislation provides for exemptions for emergencies, farm pond, mining, evaporation, hydropower, wildlife management, and special purpose districts. Registration continues for agricultural operations. Permitting is required for existing users, new users, and inter-basin transfers. The term of permit for a new user is 20 to 40 years and the term of



**Legislative Update, July 23, 2010**  
**MAJOR ISSUES No. 3**

permit for existing users is 30 to 40 years. The bill outlines that public water systems' term of permit is up to 50 years based on debt recovery. The bill addresses minimum flow based on mean annual daily flows. The bill provides for nonconsumptive surface water withdrawal and its permitting. Among many other things, the bill provides for an application procedure for surface water withdrawers that own and operate a licensed impoundment or new surface water withdrawers that withdraw water from a licensed impoundment.

*STATUS: Having passed the General Assembly, **S.452** was ratified on June 7, 2010 (R.300) and signed into law by the Governor on June 11 (Act No. 247).*

## **TRAINING OF BIRD DOGS**

This legislation outlines that pen raised quail, chukar, pheasant, Hungarian partridge or any other upland game birds approved by the Department of Natural Resources can be used for training bird dogs. In addition, the bill provides for the use of training birds during the closed season.

*STATUS: Having passed the General Assembly, **H.975** was ratified on March 25, 2010 (R.146) and signed into law by the Governor on March 31 (Act No. 139).*

# **CONSUMER PROTECTION & SAFETY**

## **MANUFACTURING, PROCESSING AND PACKAGING OF FOODS**

The legislation requires the Department of Agriculture to promulgate regulations regarding good manufacturing practice. It states that a person may not engage in the business of manufacturing, processing, warehousing or packaging food in any manner without first registering for a permit. This provision does not apply to facilities inspected and regulated by the United State Department of Agriculture (USDA) or the Clemson Livestock-Poultry Health Meat Inspection Division. Registration is required beginning January 1, 2011, and must be renewed annually thereafter. The department may perform laboratory services relating to, or having potential impact on, food safety or the compliance of food with the requirements of this chapter for any person or public agency. A person who willfully violates these provisions is subject to a civil penalty of up to one thousand dollars for each violation. Any person violating this section is also guilty of a misdemeanor and, upon conviction, must be fined not more than one thousand dollars or imprisoned for not more than thirty days.

*STATUS: Having passed the General Assembly, **H.4563** was ratified on June 7, 2010 (R.331) and signed into law by the Governor on June 11 (Act No. 261).*

## **PYROTECHNIC SAFETY**

The General Assembly approved **S.454**, a bill revising pyrotechnic safety provisions relating to the licensure and regulation of persons handling fireworks. The legislation

**Legislative Update, July 23, 2010**  
**MAJOR ISSUES No. 3**

increases the State Board of Pyrotechnic Safety from six to seven members, adding a member to represent pyrotechnics wholesalers. The legislation provides licensure requirements for the manufacturing, sale, or storage of fireworks. The Department of Labor, Licensing and Regulation is authorized to investigate complaints. The legislation: provides grounds for disciplinary action; requires liability insurance; requires the reporting of fires and explosions; and, provides criminal and civil penalties for violations.

*STATUS: Having passed the General Assembly **S.454** was ratified on May 13, 2010 (R.207). The Governor vetoed the bill on May 19. On June 1, legislators overrode the Governor's veto to allow the bill to become law (Act No. 196).*

## **RESIDENTIAL CONSTRUCTION REQUIREMENTS**

The General Assembly approved and the Governor signed into law **H.4663**, a bill pertaining to automatic residential fire sprinkler system requirements and other building code provisions affecting residential construction. The legislation requires any provision of, or amendment to, any building code that would affect construction requirements for one-family or two-family dwellings to be promulgated as a regulation by the Building Codes Council and submitted to the General Assembly for legislative review in accordance with the Administrative Procedures Act. The legislation provides that a regulation mandating the installation of an automatic residential fire sprinkler system in one-family or two-family dwellings shall not become effective at any time prior to January 1, 2014. A study committee is established to develop new strategies to increase participation in the tax credit program for fire sprinkler installation, and to review and make recommendations for increasing the installation of interconnected hard-wired smoke alarms. The six-member committee is to be composed of three members appointed by the President Pro Tempore of the Senate and three members appointed by the Speaker of the House of Representatives. The study committee must be composed of a representative of the South Carolina Fire Sprinkler Association, a representative of the South Carolina Home Builders Association, a representative of the South Carolina Association of Counties, and a representative of the Municipal Association of South Carolina. The study committee shall make a report of its findings to the General Assembly no later than January 30, 2011.

*STATUS: Having passed the General Assembly, **H.4663** was ratified on June 1, 2010 (R.282) and signed into law by the Governor on June 7 (Act No. 232).*

## **SMOKE DETECTORS REQUIRED FOR THE SALE OF A PREVIOUSLY-OWNED MANUFACTURED HOME**

The General Assembly approved **H.4350**, a bill requiring certification of functioning smoke detectors for the sale of a previously-owned manufactured home. The legislation revises manufactured home sales requirements, so as to provide that, for the sale of a previously-owned manufactured home, the buyer and seller shall sign a form certifying both persons have determined at least two functioning smoke detectors are in the home.

*STATUS: Having passed the General Assembly, **H.4350** was ratified on June 21, 2010 (R.350) and became law without the Governor's signature on June 28 (Act No. 272).*

## **SUPPORT OF THE 911 EMERGENCY CALLING SYSTEM**

The General Assembly approved and the Governor signed into law **H.4551**, a bill incorporating prepaid wireless telecommunications and voice over internet protocol (VoIP) into the state's 911 emergency calling system provisions. The legislation imposes new fees upon prepaid wireless telecommunications and Voice over Internet Protocol (VoIP) for the support of the 911 emergency calling system that are in keeping with the fees that users of traditional telephone services and mobile telecommunications plans have been paying for the support of the system.

*STATUS: Having passed the General Assembly, **H.4551** was ratified on March 25, 2010 (R.166) and was signed into law by the Governor on March 30 (Act No. 135).*

## **COURTS & CRIMINAL JUSTICE**

### **COMMUNICATION INTERRUPTION BY SLED**

This legislation allows additional reasons for which the South Carolina Law Enforcement Division or authorized law enforcement officer may interrupt phone or internet communications by issuing administrative subpoenas to certain telecommunications providers in order to safeguard the public (which include threats to persons, hostage situations, resisting arrest with weapons, possibility of suicide, and threats to critical infrastructure). This bill authorizes SLED to promulgate regulations regarding issuing administrative subpoenas. The bill expands "good faith" coverage to internet providers under an administrative subpoena. The legislation establishes that the Attorney General must give approval if a court is unable to give approval.

*STATUS: Having passed the General Assembly, **H.4256** was ratified on June 21, 2010 (R. 348) and signed into law by the Governor on June 24 (Act No. 270).*

### **CRIMINAL PENALTIES FOR TRAFFICKING IN PERSONS FOR FORCED LABOR OR SERVICES**

This legislation adds human trafficking to the list of violent crimes, to the list of Class A felonies, to the list of aggravating circumstances for murder, as an element

to be considered in criminal sexual conduct (CSC) in the first degree, to the list of aggravating circumstances for CSC with a minor, to the list of most serious offenses, to the list of those offenders that must register as sex offenders, to the list of those offenders that are subject to residency restrictions, to the list of offenders who are subject to electronic monitoring for sex offenders, and as an element to be considered in distribution and trafficking of certain drugs.

**Legislative Update, July 23, 2010**  
**MAJOR ISSUES No. 3**

*STATUS: Having passed the General Assembly, **H.4202** was ratified on June 7, 2010 (R.324) and signed into law by the Governor on June 11 (Act No. 289).*

## **DRIVER'S LICENSE CODE INDICATING A VIOLENT CRIME RECORD**

The General Assembly approved **S.288**, a bill requiring markings on driver's licenses which inform law enforcement officers that a license holder has a violent criminal record. The legislation provides that when a person is convicted of or pleads guilty or no contest to certain violent crimes, the person must surrender his license or special identification card to the Department of Motor Vehicles by mail or in person. If the person fails to do so, the driver's license or special identification card is considered cancelled. Under this legislation, a person convicted of these crimes must have a special code affixed to the reverse side of his driver's license or special identification card that identifies the person as having been convicted of a violent crime. The bill provides a fee to be charged for affixing the code, and it provides a process for removing the code in the event of a reversal of the conviction, a pardon is obtained, or after a certain period of time has elapsed. The presence of a special identifying code on a person's driver's license or special identification card may not be used as a grounds to extend the detention of a person by law enforcement officer or grounds for a search of the person or his vehicle.

*STATUS: Having passed the General Assembly, **S.288** was ratified on June 7, 2010 (R.296). On June 11, the Governor vetoed the bill. The Senate and House overrode the veto to allow the bill to become law (Act No. 277).*

## **"ELECTRONIC SECURING AND TARGETING OF ONLINE PREDATORS ACT (E-STOP)"**

This legislation requires a sex offender who is required to register with the sex offender registry to provide information regarding the offender's Internet accounts and Internet access providers and Internet identifiers. If any changes to this information occur, the sex offender must notify the sheriff's office in writing within three business days. The sheriff must notify the South Carolina Law Enforcement Division (SLED) within three business days of the changes. There are penalties for failing to provide the information or knowingly and willfully giving false information regarding an Internet account or Internet identifier. The legislation allows an interactive computer service to request from SLED a list of all registered sex offenders or information regarding specific sex offenders. SLED may charge a reasonable fee to cover the cost of copying and distributing this information. The legislation outlines how an interactive computer service may use the information. The legislation includes provisions pertaining to the liability of SLED and interactive computer services. For certain sex offenders, the legislation requires a judge to order as a condition of probation or parole that the person is prohibited from using the Internet for certain reasons, including accessing social networking sites.

**S.973** also makes other changes to the sex offender registry. Among other things, the legislation requires a person, classified as a Tier III offender by Title I of the federal Adam Walsh Child Protection and Safety Act of 2006, and the Sex Offender Registration and Notification Act (SORNA), to register every 90 days. For changes in address, the legislation reduces the time frame for notifying the sheriff's office from ten

**Legislative Update, July 23, 2010**  
**MAJOR ISSUES No. 3**

to three business days. The legislation defines a 'temporary residence' or 'residence' as the location of the individual's home or other place where the person habitually lives or resides, or where the person lives or resides for a period of ten or more consecutively days. The legislation requires additional information to be provided about vehicles, trailers, mobile homes and manufactured homes, and aircraft. The legislation also requires registration in counties where an offender is employed or volunteers or interns or carries on a vocation in schools. The legislation requires palm prints, Internet identifiers, and passport and immigration status. The legislation increases penalties for failing to provide required information and for willfully and knowingly providing false information. The legislation also makes changes to what the SLED protocol manual should include.

*STATUS: Having passed the General Assembly, **S.973** was ratified on June 1, 2010 (R.258) and was signed into law by the Governor on June 7 (Act No. 212).*

## **EXCEPTIONS TO THE REQUIREMENT FOR DESTRUCTION OF CRIMINAL RECORDS WHEN A CHARGE IS DISMISSED OR THE PERSON IS FOUND INNOCENT**

Under this Act, these provisions do not apply to a person who is charged with a violation of Title 50, Title 56, an enactment pursuant to the authority of counties and municipalities provided in Titles 4 and 5, or any other state criminal offense if the person is not fingerprinted for the violation. The legislation also authorizes the State Law Enforcement Division to promulgate regulations that allow for the electronic transmission of information.

*Status: Having passed the General Assembly, **H. 4205** was ratified on May 6, 2010 (R.197) and signed into law by the Governor on May 12 (Act No. 167).*

## **JURISDICTION OF THE PROBATE COURT**

This legislation amends numerous statutes relating to the various actions and proceedings concerning the affairs of decedents, protected persons, minors, and incapacitated persons falling under the subject matter jurisdiction of the probate court, so as to differentiate between a formal proceeding and an application to the court and the procedural rules governing each. Among other things, the legislation requires the filing and service of a summons and petition to commence a formal proceeding, distinguishes the requirement of summons and petition from the notice requirements for a hearing on a petition. The legislation also amends statutes relating to the South Carolina Trust Code, so as to substitute "person" for "parent" and "issue" for "child", delete the requirement of a taxpayer identification number on a certificate of trust, allow certain reimbursements to a prospective trustee, and make technical changes.

*STATUS: Having passed the General Assembly, **H.3803** was ratified on June 1, 2010 (R.274) and signed into law by the Governor on June 7 (Act No. 244).*

## **LIMITATIONS ON ATTORNEY'S FEES IN STATE-INITIATED ACTIONS**

This bill limits attorney's fees in state-initiated actions to a reasonable time expended at a reasonable rate. The bill outlines factors to be applied in determining a reasonable rate. The judge must make specific written findings regarding each factor in making the award of attorney's fees. However, in no event shall a prevailing party be allowed to shift attorney's fees that exceed the fees the party has contracted to pay counsel personally for work on the litigation. The bill also provides that in civil actions, an agency is presumed to be substantially justified in pressing its claim against the party if the agency follows a statutory or constitutional mandate that has not been invalidated by a court of competent jurisdiction.

*STATUS: Having passed the General Assembly, **S.186** was ratified on February 18, 2010 (R.124) and signed by into law by the Governor on February 24 (Act No. 125).*

## **LOCAL DETENTION FACILITY MUTUAL AID AND ASSISTANCE ACT**

This legislation makes technical changes to Title 24, of the South Carolina Code of Laws, relating to the detention of persons in local detention facilities. The bill deletes archaic provisions that do not reflect current practice and also codifies language that does reflect current practice. Major substantive changes to the bill include the following: A municipal or county jail administrator must consent, rather than the sheriff alone, when deciding where to house a prisoner. Local detention facilities are added to the list of facilities where conjugal visits are not allowed. Local detention center directors are given the same authority as a prison director within the Department of Corrections to suppress riots and investigate misconduct. Any person received by the jail who appears to be in a stupor must be examined by medical personnel before being admitted into the jail. A sheriff is authorized to devolve their powers over a jail to a county governing body who may then employ a jail administrator, and a county governing body may devolve the power back to the sheriff. Local detention facilities are allowed to charge to house an inmate. Local detention facilities that are contiguous to each other can enter into agreements for the safe detention of inmates in the case where one facility is unable to safely house their inmates. The Senate amended the bill to modify the way in which medical bills are paid in regards to local jails and to allow Corrections to retain certain funds to run a statewide notification program.

*Status: Having passed the General Assembly, **S.217** was ratified on June 7, 2010 (R.295) and signed into law by the Governor on June 11 (Act No. 237).*

## **"THE OMNIBUS CRIME REDUCTION AND SENTENCING REFORM ACT OF 2010"**

The stated purpose of this comprehensive legislation is to reduce recidivism, provide fair and effective sentencing options, employ evidence-based practices for smarter use of correctional funding, and improve public safety. The stated intent of Part I

**Legislative Update, July 23, 2010**  
**MAJOR ISSUES No. 3**

of this legislation is to provide consistency in sentencing classifications, provide proportional punishments for the offenses committed, and reduce the risk of recidivism. Part I of the legislation makes numerous and various revisions to criminal offenses. Many of the changes add levels to the various degrees of an

offense, increase maximum penalties, or allow discretion to judges with regards to probation and parole for offenses. The stated intent of Part II of this legislation is to provide cost-effective prison release and community supervision mechanisms and cost-effective and incentive-based strategies for alternatives to incarceration in order to reduce recidivism and improve public safety. Part II of the legislation focuses on evidence-based practices in order to use proven methods that can make smarter use of the Department of Probation, Parole and Pardon Services. Among numerous other things, the legislation provides incentives to persons under supervision to comply with conditions. Part III provides oversight revisions to fiscal impact statements and also a committee to continue oversight of the implementations of the Sentencing Reform Commission recommendations.

*STATUS: Having passed the General Assembly, **S.1154** was ratified on June 1, 2010 (R.262) and signed into law by the Governor on June 2 (Act No. 273).*

## **PROTECTIONS FOR EXECUTION TEAMS**

This legislation prohibits a person from disclosing the identity of a current or former member of an execution team or from disclosing a record that would identify a person as being a current or former member of an execution team. An exception is provided to allow disclosure upon a court order under seal for the proper adjudication of pending litigation. Any person whose identity is disclosed shall have a civil cause of action against the person who is in violation of this section and may recover actual damages and, upon a showing of a wilful violation, punitive damages. The bill further provides that no licensing agency, board, commission, or association may file, attempt to file, initiate a proceeding, or take any action to revoke, suspend, or deny a license to any person solely because that person participated in the execution of a sentence of death on a person convicted of a capital crime as authorized by law or the director.

*Status: Having passed the General Assembly, **S.329** was ratified on June 1, 2010 (R.249) and signed into law by the Governor on June 7 (Act No. 203).*

## **“RELIGIOUS VIEWPOINTS ANTIDISCRIMINATION ACT”**

This legislation prohibits a school district from discriminating against a student based on religious viewpoint. The legislation allows a student to express his religious viewpoint, allows a student to express his religious beliefs in homework and classroom assignments, and allows students to organize and participate in religious student gatherings to the same extent as secular non-curricular groups.

*STATUS: Having passed the General Assembly, **S.134** was ratified on May 25, 2010 (R.219) and signed into law by the Governor on May 28 (Act No.180).*

## REVISIONS PERTAINING TO SEXUALLY VIOLENT OFFENDERS

This bill makes comprehensive revisions pertaining to sexually violent offenders. The bill provides that the agency with jurisdiction must give written notice to the multidisciplinary team, the victim, and the Attorney General at least 270 days, rather than 180 days as is currently required, before the person's anticipated release, hearing or parole. If the appropriate department intends to grant parole or conditional release to a person who has been convicted of a sexually violent crime, the parole or the conditional release must be made effective 180 days after the date of the order of parole or conditional release. The previous language provided that the parole or conditional release must be made effective 90 days after the date of the order of parole or conditional release. If the probable cause determination is made, upon completion of the criminal sentence, the court must have the individual transferred to a facility of the Department of Mental Health for an evaluation by a court-appointed expert to determine whether or not the person is a sexually violent predator. The expert must complete the evaluation within 60 days after the probable cause hearing. However, the court may grant one extension upon request of the expert and upon good cause shown. A court must conduct a trial to determine whether a person is a sexually violent predator. Current law requires that the trial must be held within 60 days of the completion of the probable cause hearing. The legislation provides that the trial must now be conducted within 90 days after the court-appointed expert issues an evaluation on the individual. The individual or Attorney General may retain another qualified expert following the evaluation issued by the court-appointed expert. The Director of the Department of Mental Health is required to certify in writing with specific basis thereof, a determination that a person's mental abnormality has changed to the point to where the person is no longer likely to commit acts of sexual violence and are, therefore, authorized to petition the court for release. The Director is also required to notify the Attorney General of the notification and authorization. The court must order a hearing within 30 days of receiving the petition of release unless the Attorney General requests an evaluation of the individual by a qualified expert or the Attorney General or petitioner request a trial by jury. If the Attorney General's expert determination is adverse to the petitioner, then the petitioner shall have the right to retain a qualified expert of his or her own choosing. This legislation also provides a procedure for allowing indigent petitioners to obtain a qualified expert if the court finds such an examination necessary.

*STATUS: Having passed the General Assembly, **S.931** was ratified on May 6, 2010 (R.185) and signed into law by the Governor on May 12 (Act No. 158).*

## "SOUTH CAROLINA REDUCTION IN RECIDIVISM ACT OF 2010"

In order to reduce recidivism rates and protect potential victims from criminal enterprises, the legislation authorizes law enforcement officers to conduct warrantless searches and seizures on those who are on probation or parole. The legislation provides that, before an individual may be placed on probation, supervised furlough, or parole, he must agree in writing to be subject to a search or seizure, without a search warrant, based on reasonable suspicions, of his person, any vehicle he owns or is driving, and any of his possessions by any probation agent employed by the Department of Probation, Parole and Pardon Services or any other law enforcement officer. The legislation also includes provisions that make written agreement to such



**Legislative Update, July 23, 2010**  
**MAJOR ISSUES No. 3**

warrantless searches and seizures a condition for the release from custody of juveniles and youthful offenders. Agreement to warrantless search and seizure does not apply in situations involving a Class C misdemeanor or an unclassified misdemeanor that carries a term of imprisonment of not more than one year. Before conducting a warrantless search or seizure of an individual, a law enforcement officer must verify the individual's probation, parole, supervised furlough, or conditional release status. Officers are required to make reports of all warrantless searches or seizures to their law enforcement agencies that include the name, address, age, gender, and race or ethnicity of the person that is the subject of the search or seizure. An officer who fails to make a required report is subject to the disciplinary policy of his agency, but, in the absence of a written agency policy on enforcement, the officer is subject to a one-day suspension without pay. Law enforcement agencies must submit the reported information at the end of each month to the Department of Probation, Parole and Pardon Services for review of abuse. The department must report any finding of abuse to the State Law Enforcement Division for investigation.

*STATUS: Having passed the General Assembly, **S.191** was ratified on March 25, 2010 (R.140) and vetoed by the Governor on March 31. The Senate voted to override the veto on April 14 and the House of Representatives voted to override the veto on April 28 to allow the legislation to become law (Act No. 151).*

## **EDUCATION**

### **NATIONAL BOARD TEACHER CERTIFICATION PROGRAM LIMITATIONS**

The General Assembly approved **S.1363**, a bill that places new limitations on the state salary stipends for teachers who achieve the National Board Certification. The legislation provides that teachers who are certified by the National Board for Professional Teaching Standards (NBPTS) prior to July 1, 2010, shall receive an increase in pay for the initial ten-year National Board certification and no more than one ten-year renewal of National Board certification. Teachers receiving national certification from the NBPTS on or after July 1, 2010, shall only receive an annual increase in pay for the initial ten years of the certification. Only teachers who apply for certification prior to July 1, 2010, may receive a loan for the application fee. *NOTE: consult the act text for exact details; this is a summary and not a guide for employee benefit decisions.*

*STATUS: Having passed the General Assembly, **S.1363** was ratified on May 25, 2010 (R.234). On May 28, the Governor vetoed the bill and, on June 3, legislators voted to override the veto and allow the bill to become law (Act No. 201).*

### **REQUIREMENT FOR CRIMINAL BACKGROUND CHECKS OF SUBSTITUTE TEACHERS AND OTHERS WORKING IN SCHOOLS**

The legislation requires an individual hired by a local school district board of trustees to serve in any capacity in a public school in this State to undergo a name-based South Carolina State Law Enforcement Division (SLED) criminal record search. The legislation

**Legislative Update, July 23, 2010**  
**MAJOR ISSUES No. 3**

requires school districts to perform a National Sex Offender Registry check on all district employees hired to serve in any capacity in a public school and all volunteers who work in a school on an interim or regular basis as mentors, coaches, or any other capacity, or volunteers who serve as student chaperones or any other capacity having direct interaction with students. School district boards are required to adopt written policies on background searches, but policies must, at minimum, prohibit hiring those convicted of violent crimes and individuals required to register as sex offenders and must include hiring recommendations regarding felony convictions. SLED fees for a background search are waived if it is conducted on a substitute teacher on behalf of a school district. SLED is to provide training for school districts on the use of criminal record information.

*STATUS: Having passed the General Assembly, **H.4248** was ratified on May 6, 2010 (R.198) and signed into law by the Governor on May 11 (Act No. 168).*

## **“SOUTH CAROLINA EDUCATION BILL OF RIGHTS FOR CHILDREN IN FOSTER CARE ACT”**

This legislation requires school districts to ensure that the educational needs of children in foster care are met by having procedures in place to ensure prompt and seamless transitions between schools and districts. To help with a foster child's school transitions, school districts shall: (1) consider keeping the child in the same school if it is in the child's best interest; (2) facilitate immediate school enrollment, and within two school days request or send necessary school records; (3) excuse absences for court-ordered activities; allow opportunity to make up all assignments and required seat time if these absences exceed statutory limits; (4) accept for credit full or partial coursework satisfactorily completed; if the child changes schools, calculate grades and credits as of the date the child left school and not lower the child's grades as a result of these circumstances; (5) subject to federal law, permit an authorized Department of Social Services (DSS) representative access to the child's school records for purposes of educational case management and assistance with school transfer or placement of the child; and (6) make school placement decisions to ensure a foster child is placed immediately in the least restrictive educational program and has access to all academic resources, services and extracurricular activities available to other students. DSS shall: (1) immediately enroll the child in school, and maintain in the same school if possible; (2) provide a copy of the court order to the school district, and (3) provide an adult educational advocate for the child.

*STATUS: Having passed the General Assembly, **S.1134** was ratified on June 1, 2010 (R.261) and signed into law by the Governor on June 7 (Act No. 214).*

## **SUSPENSION OF SALARY STEP INCREASES FOR TEACHERS AND ADMINISTRATORS**

The General Assembly approved **H.4838**, a joint resolution which authorizes the temporary suspension of automatic salary step increases for teachers and salary

**Legislative Update, July 23, 2010**  
**MAJOR ISSUES No. 3**

increases for administrators. The joint resolution provides that, for Fiscal Year 2010-2011, a local school district board of trustees may determine that all teachers employed by the district must be paid based on the years of experience on the school district salary schedule they possessed in Fiscal Year 2009-2010, without a negative impact resulting to their experience credit. This decision must be voted on by the local school district board of trustees in a public school board meeting with public notice posted on the school district website. Application of this provision must be applied uniformly for all teachers within the school district. The local school district board of trustees may not provide for an increase in salary for district administrators and school administrators and their compensation may not be higher

than the actual amount received in Fiscal Year 2009-2010. A local school district board of trustees shall, however, continue to pay teachers and school and district administrators for changes in their education level.

*STATUS: Having passed the General Assembly, **H.4838** was ratified on May 25, 2010 (R.247) and signed into law by the Governor on May 28.*

## **TEACHER CONTRACT AND SALARY PROVISIONS**

The General Assembly approved and the Governor signed into law **H.4299**, a joint resolution authorizing certain teacher contract and salary provisions effective for the upcoming school year. The legislation provides that the boards of trustees of the several school districts shall decide and provide the required written notification to the teachers in their employ concerning their employment for the 2010-2011 school year by May 15, 2010. Any teacher who is reemployed by this written notification shall notify the board of trustees in writing of his acceptance of the contract for the 2010-2011 school year no later than ten days following receipt of written notification. Failure on the part of the teacher to notify the board of acceptance within the specified time limit shall be conclusive evidence of the teacher's rejection of the contract. The legislation also provides that school districts may uniformly negotiate salaries below the school district salary schedule for the 2010-2011 school year for retired teachers who are not participants in the Teacher and Employee Retention Incentive Program.

*STATUS: Having passed the General Assembly, **H.4299** was ratified on May 6, 2010 (R.199) and signed into law by the Governor on May 11.*

## **FAMILY & HEALTH**

### **ADMINISTRATION OF INFLUENZA VACCINES BY PHARMACISTS WITHOUT A DOCTOR'S PRESCRIPTION**

**Legislative Update, July 23, 2010**  
**MAJOR ISSUES No. 3**

The legislation requires the Board of Medical Examiners to issue a written protocol for the administration of influenza vaccines to adults aged eighteen and over by pharmacists without an order of a practitioner no later than January 1, 2011. The written protocol must include provisions authorizing pharmacists to administer without an order of a practitioner those medications necessary in the treatment of adverse events. In order to assist and advise the Board of Medical Examiners in establishing this written protocol, the legislation establishes a Joint Pharmacist Administered Influenza Vaccines Committee to consist of seven members with experience regarding influenza vaccines. The committee is comprised of two physicians selected by the Board of Medical Examiners, two pharmacists selected by the Board of Pharmacy, and two advanced practice nurse practitioners selected by the Board of Nursing. One member of the Department of Health and Environmental Control designated by the Commissioner of the Department also shall serve on the committee.

*STATUS: Having passed the General Assembly, **H.3393** was ratified on June 1, 2010 (R.269) and signed into law by the Governor on June 7 (Act No. 224).*

## **“ANN S. PERDUE INDEPENDENT AUTOPSY FAIRNESS ACT OF 2010”**

The legislation provides that if a patient dies in a hospital or a health care facility where invasive surgical procedures are performed, the person authorized to consent, has the right to have an autopsy performed. The hospital or health care facility must inform the person authorized to consent of this right in writing. The notification must inform the person that if there is a charge for the autopsy the cost is to be paid by a private source. This bill also requires a coroner or medical examiner to be notified if a person dies in a health care facility, excluding nursing homes, within 24 hours of entering the health care facility or within 24 hours after having undergone an invasive surgical procedure at the health care facility. If an autopsy is ordered by a coroner or medical examiner upon review of a death, the autopsy must not be performed at the health care facility where the death occurred or by a physician who treated the patient or is employed by the health care facility in which the death occurred.

*STATUS: Having passed the General Assembly, **H.3735** was ratified on June 1, 2010 (R.271) and was signed into law by the Governor on June 2 (Act No. 226).*

## **COMPREHENSIVE REVISIONS PERTAINING TO DEPARTMENT OF SOCIAL SERVICES (DSS) ABUSE AND NEGLECT PROCEEDINGS AS WELL AS ADOPTION**

Highlights of the legislation include the following:

### **Family Preservation**

Pertaining to reasonable efforts made by DSS to preserve or reunify a family, this legislation allows a separate proceeding for this purpose. The court may consider the

**Legislative Update, July 23, 2010**  
**MAJOR ISSUES No. 3**

issue on the motion of a named party, the child's guardian ad litem, or the foster care review board in certain circumstances. Among the list of reasons a

court may authorize DSS to terminate or forego reasonable efforts to reunify the family, the bill allows the court to consider (1) actions the parent may have done to another child residing in the parent's home and (2) the fact that the parent has a diagnosable condition unlikely to change within a reasonable time and the condition makes the parent unlikely to provide minimally acceptable care of the child. If the court authorizes or does not authorize DSS to terminate or forego reasonable efforts to preserve or reunify the family, the court must make certain specific findings. Further in making its determination, the court must not consider the availability or lack of adoptive resources as a reason to deny the request to terminate or forego reasonable efforts. When the court allows reunification efforts to terminate, DSS is required to file a petition for termination of parental rights (TPR) within 60 days unless there are compelling reasons why TPR is not in the child's best interests.

### **Placement Plans**

The legislation makes revisions to the placement plan a court must approve if the court orders that a child be removed from the custody of the parent. The first section of the placement plan must set forth changes that must occur in the home and family situation before the child can be returned. This section must also contain a notice to parents that failure to comply within six months may result in TPR. The second section of the plan must include specific actions to be taken by

parents and outline what services are to be provided or made available to the parent. The third section of the plan shall set forth the rights and obligations of the parents while the child is in custody. The fourth section of the plan must address matters relating to the placement of the child. Before the court orders the return of a child, the court must find that the changes in the home and family situation have occurred and that the child can be safely returned home.

### **Permanency Planning Hearings**

Under current law, the court is required to review the status of a child placed in foster care upon motion filed by DSS to determine a permanent plan for the child. This bill requires the DSS summons and petition for a permanency planning hearing to include a statement of whether or not the court has authorized the agency to forego or terminate reasonable efforts to reunify the family. This bill provides that extensions for reunification may not be provided beyond 18 months after the child was placed in foster care. The bill outlines when an extension for reunification may be granted.

### **Adoption**

Under this bill, no person or entity other than DSS, a child placing agency licensed in this State, or an attorney licensed in this State may advertise that a person or entity will place or accept a child for adoption. A violation of this provision is a misdemeanor. Also, the family court shall enjoin a person or entity from violating this provision. The legislation includes a definition for the term "advertise".

With regard to adoption of a spouse's child or adoption of a child relative, this bill

provides that, upon good cause shown, the court may waive the requirement that the adoption proceeding must be finalized in this State.

*STATUS: Having passed the General Assembly, **S.1172** was ratified on May 6, 2010 (R.187) and was signed into law by the Governor on May 12 (Act No. 160).*

## **CONTINUITY OF INSURANCE COVERAGE OF CARE FOR A SERIOUS MEDICAL CONDITION**

The General Assembly approved and the Governor signed into law **H.3371**. This legislation establishes new requirements for the continuation of care for a serious medical condition when a provider becomes out-of-network for a health insurance plan during the course of treatment. The legislation provides new requirements for health insurers covering such situations that allow the insured to receive continuity of care for ninety days or until the termination of the benefit period, whichever is greater.

*STATUS: Having passed the General Assembly, H.3371 was ratified on March 25, 2010 (R.158) and signed into law by the Governor on March 31 (Act No. 143).*

## **ELECTRONIC HEALTH INFORMATION STUDY COMMITTEE**

The General Assembly approved and the Governor signed into law **H.3170**, a joint resolution creating the Joint Electronic Health Information Study Committee to examine factors affecting the adoption of health information technology in this state and make recommendations on how the use of health information technology and electronic personal health records could be expanded in order to reduce medical errors, improve diagnoses, and enhance the quality and efficiency of health care. The committee is composed of: (1) three members appointed by the Governor; (2) three members of the House of Representatives appointed by the Speaker of the House of Representatives; and (3) three members of the Senate appointed by the President Pro Tempore of the Senate. The staffing for the committee must be provided by the Department of Health and Human Services and the appropriate committees of the Senate and House of Representatives that oversee health care policy. The members of the committee may not receive compensation and are not entitled to receive mileage, subsistence, and per diem. The committee shall submit its report to the General Assembly and Governor before February 15, 2011, at which time it is abolished.

*STATUS: Having passed the General Assembly, **H.3170** was ratified on March 25, 2010 (R.156) and was signed into law by the Governor on March 31.*

## **GRANDPARENT VISITATION**

**Legislative Update, July 23, 2010**  
**MAJOR ISSUES No. 3**

This legislation provides that the family court has the jurisdiction to order visitation for the grandparent of a minor child where either or both parents of the minor child is or are deceased, or are divorced, or are living separate and apart in different habitats, if the court finds that the child's parents or guardians are depriving the grandparent of the opportunity to visit with the child and: (a) the court finds by clear and convincing evidence that the child's parents or guardians are unfit; or (b) the court finds by clear and convincing evidence that there are compelling circumstances to overcome the presumption that the parental decision is in the child's best interest. The judge presiding over this matter may award attorney's fees and costs to the prevailing party. It requires that a grandparent to have had a prior parent-child relationship established with the child.

*STATUS: Having passed the General Assembly, **S.981** was ratified on June 21, 2010 (R.342) and signed into law by the Governor on June 24 (Act No. 267).*

## **MASS IMMUNIZATION PROJECTS**

The bill expands the immunity provision to cover all licensed nurses who participate in a mass immunization project. The bill also requires DHEC to establish a statewide immunization registry. The information will be covered by HIPA and state health care privacy laws.

*STATUS: Having passed the General Assembly, **H.4446** was ratified on May 25, 2010 (R.244) and became law without the Governor's signature on June 1 (Act No. 210).*

## **PREREQUISITES FOR PERFORMING AN ABORTION**

The legislation requires that no abortion may be performed sooner than twenty-four hours after a woman receives certain written materials and certifies this fact to the physician or the physician's agent. (If the woman verifies in writing, before the abortion, that the printed materials were received by her more than twenty four hours before the abortion is scheduled to be performed or induced and that she has been informed of her opportunity to review the information, then the waiting period required may not apply). The legislation requires the Department of Health and Environmental Control (DHEC) to publish information about providers that offer ultrasounds free of charge. The legislation allows for the electronic transfer of this information and for the Internet publication of these materials to also include time stamping of downloaded materials and links to websites that identify locations that perform ultrasounds for free. DHEC must also publish a plainly worded explanation of how a woman may calculate gestational age. DHEC must publish a scientifically accurate statement concerning the

contribution that each parent makes to the genetic constitution of their biological child. DHEC must also publish forms for notification, certifications and verifications.

STATUS: *Having passed the General Assembly, **H.3245** was ratified on June 21, 2010 (R.345) and signed into law by the Governor on June 24 (Act No. 268).*

## **REPORT CERTAIN ALLEGATIONS OF CHILD ABUSE OR NEGLECT**

This legislation includes a school attendance officer, foster parent, juvenile justice worker, and a volunteer guardian ad litem among the people who must report certain allegations of abuse or neglect. The bill also encourages other people to report this abuse.

Status: *Having passed the General Assembly, **H. 3800** was ratified on June 1, 2010 (R.273) and became law without the Governor's signature on June 8 (Act No.227).*

# **GOVERNMENT**

## **ELECTRONIC FILING OF CAMPAIGN DISCLOSURE AND REPORTS**

This legislation provides that electronic filing of campaign disclosure and reports provisions are applicable to all persons subject to the state's Ethics and lobbying laws, including candidates for local government offices, lobbyists, and lobbyist principals.

STATUS: *Having passed the General Assembly, **H.3066** was ratified on May 25, 2010 (R.237) and signed into law by the Governor on May 28, 2010 (Act No. 190).*

## **JURY SERVICE BY EDUCATORS**

This legislation allows a public or private school employee, a person primarily responsible for the elementary or secondary education of a child in a home or charter school, or a person who is an instructor at an institution of higher learning including a technical college selected for jury service during the school term to request and have his service postponed to a date that does not conflict with the school term. School term means the instructional school year, generally from September 1 until May 30 or not more than 190 days. The bill provides that a person selected for jury service who requests postponement must provide certain evidence of educational responsibilities during a home or charter school term coinciding with the dates of jury duty. The legislation makes technical changes regarding excusing jurors for good cause.

STATUS: *Having passed the General Assembly, **S.1300** was ratified on May 25, 2010 (R. 230) and signed into law by the Governor May 28 (Act No. 187).*



## QUALIFICATIONS OF CORONERS

The legislation provides that, in addition to other requirements, a candidate must have at least one of the following qualifications: (a) have at least three years of experience in death investigation with a law enforcement agency, coroner, or medical examiner agency; (b) have a two-year associate degree and two years of experience in death investigation with a law enforcement agency, coroner, or medical examiner agency; (c) have a four-year baccalaureate degree and one year of experience in death investigation with a law enforcement agency, coroner, or medical examiner agency; (d) be a law enforcement officer, who is certified by the South Carolina Law Enforcement Training Council with a minimum of two years of experience; (e) be a licensed private investigator with a minimum of two years of experience; or (f) have completed a recognized forensic science degree or certification program or be enrolled in a recognized forensic science degree or certification program to be completed within one year of being elected to the office of coroner. The bill further requires a candidate for coroner to file a sworn affidavit with the county executive committee of the person's political party under specified time frames. The bill provides for the filing of the affidavit by petition candidates, and it delineates the information that the affidavit must contain. The legislation also establishes requirements for a person appointed by a coroner to the position of deputy coroner.

*STATUS: Having passed the General Assembly, **S.3536** was ratified on May 25, 2010 (R.238) and vetoed by the Governor on May 28, 2010. The House of Representatives voted to override the veto on June 1 and the Senate voted to override the veto on June 2 to allow the legislation to become law (Act No. 222).*

## REIMBURSEMENT OF PROPERTY OWNERS FOR THE TAKING OF LAND FOR PUBLIC USE

This legislation relates to property owners and provides that reestablishment expenses related to the moving of a small business, farm, or nonprofit organization payable for transportation projects pursuant to federal guidelines and regulations may be paid in an amount up to \$50,000, notwithstanding a lower limitation imposed by federal regulations.

*Status: Having passed the General Assembly, **S.1187** was ratified on May 25, 2010 (R. 226) and signed into law by the Governor on May 28, 2010 (Act No. 184).*

## HERITAGE & HOLIDAYS

### DISTURBING AN ARCHEOLOGICAL SITE

The legislation states that it is unlawful to willfully, knowingly, or maliciously enter upon the posted lands of another or the state and investigate, disturb, or excavate a prehistoric or historic site for the purpose of discovering, uncovering, moving, removing, or attempting to remove an archaeological resource. An archeological resource includes all artifacts, relics, burial objects, or material remains of past human life or

**Legislative Update, July 23, 2010**  
**MAJOR ISSUES No. 3**

activities that are at least one hundred years old and possess either archaeological or commercial value, including pieces of pottery, basketry, bottles, weapons, weapon projectiles, tools, structures or portions of structures, rock paintings, rock carving, intaglios, graves, or human skeletal materials. The legislation also prohibits destruction or desecration of Native American burial ground or burial mound. The legislation provides criminal penalties for violations and civil remedies.

*STATUS: Having passed the General Assembly, **H.4129** was ratified on June 7, 2010 (R. 321) and signed into law by the Governor on June 11 (Act No. 255).*

## **OFFICIAL STATE HERITAGE HORSE**

The Marsh Tacky is designated as the official State Heritage Horse of South Carolina.

*STATUS: Having passed the General Assembly, **S.1030** was ratified on June 7, 2010 (R. 307) and signed into law by the Governor on June 11 (Act No. 240).*

## **OFFICIAL STATE HISTORIC WORK ANIMAL**

The mule is designated as the official State Heritage Work Animal of South Carolina.

*STATUS: Having passed the General Assembly, **S.1030** was ratified on June 7, 2010 (R. 307) and signed into law by the Governor on June 11 (Act No. 240).*

# **MILITARY**

## **EXEMPTION FOR MILITARY MEMBERS FROM THE HUNTER'S EDUCATION COURSE REQUIREMENT**

This legislation exempts Armed Services personnel from taking the hunter's education course prior to receiving a South Carolina hunting license. This exemption is with the understanding that these persons can demonstrate that they completed rifle marksmanship training during their military career.

*STATUS: Having passed the House of Representatives and the Senate, **H.3975** was ordered enrolled for ratification on June 2, 2010 and vetoed by the Governor on June 21*

## INTERSTATE COMPACT ON EDUCATIONAL OPPORTUNITY FOR MILITARY CHILDREN

The General Assembly approved **S.319** which authorizes South Carolina to join the Interstate Compact on Educational Opportunity for Military Children. The purpose of the compact is to remove barriers to educational success imposed on children of military families because of frequent moves and deployment of their parents by enhancing the transfer of education records and improving coordination among member states so that varying attendance requirements and methods of scheduling, sequencing, grading, course content and assessment will not place children of

military families at a disadvantage when they must relocate. The legislation provides that the State Superintendent of Education is the compact commissioner of this state. The legislation establishes the eleven-member Council on Educational Opportunity for Military Children consisting of: (1) the Governor or his designee; (2) one member appointed by the Governor to represent military installations in the State; (3) two members of the House of Representatives appointed by the Speaker of the House; (4) two members of the Senate appointed by the President Pro Tempore of the Senate; (5) two members appointed by the State Superintendent of Education, to include a superintendent of a school district with a high concentration of military families and a member of a military family with experience in the educational challenges that military children face; (6) the State Board of Education chair and chair-elect; and (7) the State Superintendent of Education or his designee, who shall serve as chair. The council must meet at least once a year to consider matters related to the Interstate Compact on Educational Opportunity for Military Children and has the authority to represent the State in all actions of the compact.

*STATUS: Having passed the General Assembly, **S.319** was ratified on June 7, 2010 (R.297) and signed into law by the Governor on June 11 (Act No. 246).*

## PERSONS WHO MAY SERVE AS A DECEDENT'S AGENT TO AUTHORIZE CREMATION

This legislation adds that a person named in the decedent's Department of Defense Record of Emergency Data (DD Form 93) is permitted to authorize cremation if the decedent died while serving in the military and so long as there was no known contrary designation in the decedent's will.

*STATUS: Having passed the General Assembly, **S.1028** was ratified on June 2, 2010 (R. 289) and signed into law by the Governor on June 8 (Act No. 221).*

## PROPERTY TAX EXEMPTION FOR MEDAL OF HONOR RECIPIENTS

The General Assembly approved **H.4839**. This bill specifies that the property tax exemption allowed for recipients of the Medal of Honor and prisoners of war in certain conflicts applies to Medal of Honor recipients regardless of the conflict involved or when the Medal of Honor was awarded.

*STATUS: Having passed the General Assembly, **H.4839** was ratified on June 7, 2010 (R.334) and signed into law by the Governor on June 11 (Act No. 264).*

## **STUDY COMMITTEE FOR VETERANS' AFFAIRS**

This joint resolution establishes a study committee to project the veteran population in South Carolina during the next twenty years; to study the advisability and feasibility of constructing an additional state veterans' nursing home in the state; to find ways in which the state should proceed to generate maximum use of state tax revenue for the benefit of veterans; and to study veterans' access to existing nursing facilities and adult daycare facilities and the availability of these facilities. The committee is comprised of three members of the Senate and three members of the House. The committee shall elect a chairman and a vice chairman and shall meet as often and at any locale in the state. The committee shall render a written report of its findings and recommendations to the General Assembly and to the Governor not later than April 1, 2010, at which time the committee shall be dissolved and this joint resolution shall expire. The committee shall receive clerical and related assistance from the staff of the Senate and the staff of the House of Representatives, as approved. The members of the committee may not receive compensation and are not entitled to receive mileage, subsistence, and per diem authorized by law for members of state boards and committees.

*STATUS: Having passed the General Assembly, **H.3488** was ratified on February 19, 2010 (R.129) and signed into law by the Governor on February 24.*

## **WAIVER OF POWER OF ATTORNEY FILING FEES FOR COMBAT DEPLOYED MEMBERS OF THE ARMED FORCES**

This legislation revises provisions for fees collected by county clerks of court so as to allow for the waiver of power of attorney filing fees for combat deployed members of the Armed Forces.

*STATUS: Having passed the General Assembly, **H. 4239** was ratified on June 7, 2010 (R.325) and signed into law by the Governor on June 11 (Act No. 256).*

# **STATE FINANCE**

## **CIGARETTE TAX**

The General Assembly approved **H.3584**, legislation that increases the state's current seven-cents-per-pack cigarette tax, devoting the majority of the revenue generated by the increase to a newly-created Medicaid Reserve Fund and authorizing funding for cancer research, smoking prevention and cessation, and state agricultural assistance. Effective July 1, 2010, the legislation imposes an additional surtax of two and one-half cents on each cigarette, which amounts to an additional fifty cents for each pack of cigarettes. The legislation provides for the distribution of the additional revenue

**Legislative Update, July 23, 2010**  
**MAJOR ISSUES No. 3**

generated by: crediting five million dollars annually to the Medical University of South Carolina Hollings Cancer Center to be used for tobacco-related cancer research; devoting five million dollars annually to a newly-created trust fund that the Department of Health and Environmental Control is to use in administering a statewide smoking prevention and cessation program; and, depositing the remaining annual revenue in a newly-created South Carolina Medicaid Reserve Fund. The Medicaid Reserve Fund may only be used for the restoration and maintenance of effort of the Medicaid program as it is currently structured. The fund must not be used to expand any component of the existing Medicaid program. The legislation also provides that, if funds are available and not otherwise committed, one million dollars annually for five fiscal years is to be directed to the Department of Agriculture for the marketing and branding of South Carolina-grown produce and for relief from natural disasters affecting state-grown crops.

*STATUS: Having passed the General Assembly, **H.3584** was ratified on May 6, 2010 (R.193). On May 11, the Governor vetoed the bill. On May 13, legislators overrode the veto to allow the bill to become law (Act No. 170).*

## **RESERVE FUND ENHANCEMENTS AND REVISED PROCEDURES FOR ADDRESSING STATE REVENUE SHORTFALLS**

The General Assembly approved **H.3396**, a proposed state constitutional amendment to increase the holdings requirement of the General Reserve Fund and revise the use of the Capital Reserve Fund. This joint resolution proposes to amend the South Carolina Constitution to provide for the amount required to be held in the General Reserve Fund to be increased gradually from three percent to five percent of state general fund revenue in the latest completed fiscal year. Specifically, the resolution proposes to revise the General Reserve Fund holdings requirement to provide for an additional cumulative one half of one percent of general fund revenue in each fiscal year succeeding the last fiscal year to which the three percent requirement applied until the percentage of revenue in the General Reserve Fund equals the five percent requirement, which shall thereafter be maintained. The legislation also includes proposed changes for the state's other set-aside account, the Capital Reserve Fund, which can be spent on capital improvements only if a revenue shortfall is avoided. Under the proposed changes, expenditures on nonrecurring projects from the Capital Reserve Fund would be delayed until after the fund is used for any replenishment of the General Reserve Fund that may be needed. The proposed amendments to the South Carolina Constitution will be submitted to the state's voters at the next general election.

The General Assembly also approved **H.3395**, a bill that allows for the implementation of the proposed reserve fund enhancements and revises procedures for addressing state revenue shortfalls. The bill revises statutory provisions governing the use of the General Reserve Fund and the Capital Reserve Fund to conform them to any amendments to the South Carolina Constitution that change the amount required to be held in the General

**Legislative Update, July 23, 2010**  
**MAJOR ISSUES No. 3**

Reserve Fund and the replenishment of that amount. The legislation also revises the protocol for handling state revenue shortfalls under which the Budget and Control Board is authorized to implement across-the-board budget cuts in situations when revenue collection falls below four percent of forecasts. The legislation establishes a more sensitive trigger of a two percent revenue shortfall, authorizes reductions in the third quarter of the fiscal year in addition to the first and second quarters, and shortens the time period in which the board is required to take action to avoid a year-end deficit from fifteen days to seven days. The legislation also provides for automatic budget cuts by requiring the Director of the Office of State Budget to reduce general fund appropriations uniformly by the requisite amount if the Budget and Control Board does not take unanimous action within seven days. Upon making the reduction, the Director of the Office of State Budget immediately must notify the State Treasurer and the Comptroller General of the reduction, and upon notification, the appropriations are considered reduced. The legislation provides that the Budget and Control Board

may only recognize a deficit by a vote of at least four board members. The legislation specifies that the Budget and Control Board's uniform appropriations reductions are subject to any bill or joint resolution enacted by the General Assembly.

*STATUS: Having passed the General Assembly, **H.3396** was ratified on April 20, 2010 (R.172). The amendments to the South Carolina Constitution proposed by this joint resolution will be submitted to the state's voters at the next general election. Having passed the General Assembly, **H.3395** was ratified on April 20, 2010 (R.171). On April 26, the Governor vetoed the bill and, on May 6, legislators overrode the veto to allow the bill to become law (Act No. 152).*

Legislative Update, July 23, 2010  
MAJOR ISSUES No. 3

---

The *Legislative Update* is on the Worldwide Web. Visit the South Carolina General Assembly Home Page (<http://www.scstatehouse.gov>) and click on "*Publications*," then click on "*Legislative Update*." This will list all of the *Legislative Updates* by date. Click on the date you need.

**NOTE: THE LEGISLATIVE UPDATE IS AVAILABLE TO LEGISLATIVE TRACKING SUBSCRIBERS. YOU MAY REGISTER FOR THIS FREE SERVICE ON THE SOUTH CAROLINA GENERAL ASSEMBLY HOME PAGE BY CLICKING ON "ELECTRONIC TRACKING" (UNDER "LEGISLATIVE RESOURCES"), THEN CLICKING ON "ADD NEW SUBSCRIPTION RECORD" AND COMPLETING THAT FORM.**